

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

Dated this the 26th day of May, 1998

Before:

THE HON'BLE MR. JUSTICE R.V. RAVEENDRAN

Writ Petition No. 24661 of 1992

K.H. Narayanagowda,
s/o Hanumegowda,
Agriculturist,
r/a Katteri Village,
Pandavapura Taluk,
Mandya District

..Petitioner

(By Sri B.T. Parthasarathy, Advocate)

-Vs-

1. The State of Karnataka,
by its Secretary and
Commissioner,
Department of Rural Development,
and Panchayat Raj,
Vidhana Soudha,
Bangalore-560 001;
2. The Zilla Parishat,
Mandya,
by its Secretary;
3. Aralakuppe Mandal Panchayat,
Aralakuppe, Pandavapura Taluk,
Mandya District, by its
Secretary;
4. K.C. Venkatesh,
s/o Chaluvegowda,
r/a Katteri Village,
Pandavapura Taluk,
Mandya District

..Respondents

(By Sri G.S. Bhat and C.Sadashiva for R4;
R1 to R3 (Sd).

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Writ Petition is filed praying to quash the order
of R2 dated 14-5-1992 passed in Appeal No.33/91 vide
Annexure-E.

This writ petition coming on for preliminary
hearing in 'B' Group this day, the Court made the following:-

20/1

O R D E R

The petitioner claims to be the owner of property bearing Khatha No.361 in Katteri village, Pandavapura Taluk, Mandya District, measuring East-West 54' and North-South 31'. He applied for grant of a licence for construction of a residential house in the said property. The Panchayat passed a resolution on 27-7-1991 for grant of a licence and accordingly a licence was granted by the Panchayat to the petitioner on 7-8-1991 (Annexure-C). As per the licence, the petitioner was required to leave a margin of 5' on the front side and a margin of 3' on either side of his property. The petitioner contends that he commenced construction accordingly.

2. When matter stood thus, the fourth respondent filed an appeal before the second respondent. The second respondent has disposed of the appeal by an order dated 14-5-1992 (Annexure-E), directing that the petitioner should leave an area of 14' in his site on the West, to provide an access road. The petitioner is aggrieved.

3. According to the petitioner, during the

Rmk

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pendency of the appeal, a Mahazar was drawn in the presence of the villagers, petitioner and fourth respondent; and at that time, the petitioner and fourth respondent had agreed that the petitioner was required to leave only 3' space on the Western and Northern sides and, therefore, there was no justification for the second respondent to direct the petitioner to leave 14' on the Western side. The petitioner has accordingly filed this petition for quashing Annexure-E dated 14-5-1992 in so far as it directs the petitioner to leave 14' on the Western side.

4. When the matter came up today, learned Counsel for the fourth respondent stated that the petitioner has constructed a building in his site in pursuance of the agreement/arrangement already reached between the petitioner and the fourth respondent and, therefore, the fourth respondent has no objection for the impugned order being modified accordingly.

5. The licence requires only 3' to be left on either side of the property. The respondents have not been able to demonstrate from the relevant Act or the Rules how a space of 14' should

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be left by the petitioner when the total measurement of his property is 54' x 31'. Having regard to the fact that the petitioner has constructed the building in accordance with the licence and having regard to the fact that the fourth respondent who earlier had a grievance has no grievance now, Annexure-E cannot be sustained.

6. In the result, the petition is allowed and Annexure-E is quashed.

Sd/-
JUDGE



Bnr/-